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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

-----X  
RONALD LIPTON and BRETT LIPTON,

Plaintiffs,

-against-

00 Civ. 319 (LEK) (RWS)

JOHN WOOTON, KEVIN LANE, EDWIN BREWSTER, THE TOWN OF  
WOODSTOCK, TOWN OF SAUGERTIES, GREG HULBERT, CHIEF  
OF THE TOWN OF SAUGERTIES POLICE DEPARTMENT and JOHN  
DOE, AN UNIDENTIFIED TOWN OF SAUGERTIES POLICE OFFICER,

Defendants.  
-----X

EXAMINATION BEFORE TRIAL

of the Defendant, KEVIN LANE, held on October 15th,  
2002, commencing at 11:45 a.m., at the offices of Valley  
Reporting Service, 115 Green Street, Kingston, New York,  
before Kimberly Burke, a Shorthand Reporter and Notary  
Public in and for the State of New York.

\* \* \* \* \*

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VALLEY REPORTING SERVICE  
115 Green Street  
Kingston, New York 12401  
(845) 331-4020

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2       A P P E A R A N C E S

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RONALD LIPTON  
BRETT LIPTON  
JOHN WOOTON  
EDWIN BREWSTER  
GREG HULBERT

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S T I P U L A T I O N S

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IT IS HEREBY STIPULATED AND AGREED by

and between the counsel for the respective parties

hereto that all rights provided by the C.P.L.R.,

including the right to object to any question,

except as to the form, or to move to strike any

testimony at this examination, are reserved; and,

in addition, the failure to object to any question

or to move to strike testimony at this examination

shall not be a bar or waiver to make such a motion

at, and is reserved for, the trial of this action.

IT IS FURTHER STIPULATED AND AGREED that this

examination may be signed and sworn to by the

witness being examined, before a Notary Public

other than the Notary Public before whom this

examination was begun, but the failure to do so,

or to return the original of this examination to

counsel, shall not be deemed a waiver of rights

provided by Rules 3116 and 3117 of the C.P.L.R.,

and shall be controlled thereby.

IT IS FURTHER STIPULATED AND AGREED that

the filing of the original of this examination

shall be and the same is hereby waived.

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KEVIN LANE,

3

having been first duly sworn by the Notary Public,

4

was examined and testified as follows:

5

\* \* \* \* \*

6

EXAMINATION BY MR. SMITH:

7

Q. Good morning, Officer. My name is Alex Smith.

8

A. Kevin Lane, how are you.

9

Q. How are you presently employed?

10

A. With the Town of Woodstock Police Department.

11

Q. In what capacity?

12

A. Police officer.

13

Q. How long have you been employed by Woodstock as a  
14 police officer?

15

A. Since 1997.

16

Q. Continuously until today?

17

A. Yes, sir.

18

Q. Prior to being employed by Woodstock, were you  
19 employed as a police officer anywhere else?

20

A. I was.

21

Q. Where was that?

22

A. Shandaken Police Department.

23

Q. That's where?

24

A. That's one town west of the Town of Woodstock in  
25 Ulster County.

1 KEVIN LANE

2 Q. How long were you a police officer there?

3 A. Since 1995.

4 Q. Did you work anywhere prior to that as a police  
5 officer?

6 A. No.

7 Q. I'm going to direct your attention to February  
8 14th of 1999. Prior to that date, did you know a  
9 Jim Wrolsen?

10 A. No.

11 Q. Were you aware of a Wrolsen family living in or  
12 near the Town of Woodstock?

13 A. No.

14 Q. Did you know of a Wrolsen being employed as a  
15 Saugerties police officer?

16 A. No.

17 Q. Prior to that date, did you know either Ron or  
18 Brett Lipton?

19 A. No.

20 Q. Had you ever heard anything about them?

21 A. No.

22 Q. What was your shift that day?

23 A. 3:00 p.m. to 11:00 p.m.

24 Q. What were your duties that day?

25 A. Routine patrol.

1 KEVIN LANE

2 Q. Were you doing routine patrol in your own car by  
3 yourself?

4 A. Yes, sir.

5 Q. Did there come a time on that day when you heard  
6 anything about an incident at Wrolsen Drive?

7 A. Yes.

8 Q. When was it that you heard about it?

9 A. Shortly before meeting with Officer Wooton.

10 Q. How did you hear about it?

11 A. Through a conversation at the Woodstock Police  
12 Department.

13 Q. Who was that conversation with?

14 A. The dispatcher at the Woodstock Police Department  
15 had been on the phone apparently with the  
16 Saugerties Police Department.

17 Q. So your knowledge came from the dispatcher?

18 A. I believe so.

19 Q. Were you in your car or at the station when you  
20 had this conversation with the dispatcher?

21 A. I had no conversation with the dispatcher.

22 Q. How did you learn about it?

23 A. I heard him speaking on the telephone.

24 Q. So you must have been in the station?

25 A. Yes.

1 KEVIN LANE

2 Q. What did you hear him saying over the phone?

3 A. I don't recall exactly. It was in direct relation  
4 to a conversation that the dispatcher had had via  
5 our police radio with Officer Wooton in the field.

6 Q. Can you remember anything about this conversation  
7 that you heard?

8 A. I recall Officer Wooton inquiring about an  
9 incident in Saugerties, a trespass incident in  
10 Saugerties, and something to the effect that he  
11 had knowledge or possibly had knowledge that would  
12 relate to the incident in the Town of Saugerties.

13 Q. Did you hear Wooton saying that or did you hear  
14 the dispatcher saying this?

15 A. I believe I heard Wooton saying that on the police  
16 radio.

17 Q. While you were in the station?

18 A. Yes.

19 Q. Did you hear Wooton say anything else?

20 A. Other than that, no.

21 Q. What did you hear the dispatcher saying on the  
22 telephone?

23 A. I can't be sure, but it was in reference to what  
24 Officer Wooton had discussed with him via the  
25 police radio. I believe there was a request from

1 KEVIN LANE

2 Wooton to ascertain more about the incident or if  
3 there was any other descriptors regarding the  
4 incident that could help him in the field with  
5 what he knew or was associating with this  
6 incident.

7 Q. Do you know who the dispatcher was then talking to  
8 on the telephone?

9 A. I do not know for sure. I assumed that it was the  
10 Saugerties Police Department.

11 Q. What led to that assumption?

12 A. Because at one point Officer Wooton had made a  
13 request for him to call the Saugerties Police  
14 Department.

15 Q. How long was the dispatcher on the phone while you  
16 were there?

17 A. I couldn't say.

18 Q. Was it seconds, minutes, ten minutes or fifteen?

19 A. I couldn't say. It didn't seem to be that long,  
20 but I couldn't say.

21 Q. Were you there when the conversation ended?

22 A. I couldn't say.

23 Q. Well, do you recall?

24 A. It did not have my direct attention.

25 Q. Do you recall leaving the police station?



1 KEVIN LANE

2 A. Yes.

3 Q. Were you leaving while the dispatcher was still on  
4 the phone?

5 A. I don't recall. It did not have my direct  
6 attention, so it's difficult for me to recall.

7 Q. What was the reason that you left the police  
8 station?

9 A. I left the police station to go meet with Officer  
10 Wooton.

11 Q. Was that at Wooton's request, the dispatcher's  
12 request or your own initiative?

13 A. My own initiative.

14 Q. And you left in your patrol car by yourself?

15 A. Yes, sir.

16 Q. How did you know where Wooton was at that point in  
17 time?

18 A. I believe at one point I heard him say on the  
19 radio that he was across the street from the Mobil  
20 station and I may have even once I got in my car  
21 called directly to him to find out exactly where  
22 he was, but I'm not even sure of that.

23 Q. There is more than one Mobil in the Town of  
24 Woodstock; isn't there?

25 A. There is not.

1 KEVIN LANE

2 Q. There is not?

3 A. No.

4 MR. POSNER: You thought you had him  
5 there; didn't you?

6 Q. How long did it take you to get from the station  
7 to where Wooton was? The police station, not the  
8 Mobil station.

9 A. From the police station to the Mobil station or to  
10 where Officer Wooton was?

11 Q. Right.

12 A. Approximately one minute.

13 Q. During that one minute, do you recall having a  
14 conversation on the radio?

15 MR. POSNER: Objection.

16 A. I don't recall if I did or not. I may have.

17 Q. Do you recall having a conversation with anybody  
18 else during that one minute of traveling time?

19 A. No, sir.

20 Q. When you got to the vicinity of the Mobil station,  
21 what did you see?

22 A. I met with Officer Wooton across the street; I saw  
23 Officer Wooton's car.

24 Q. You drove right up to his car?

25 A. I drove right next to his car, yes. We were in

1 KEVIN LANE

2 the parking area of the establishment across the  
3 street from the Mobil station.

4 Q. Was that establishment a bar?

5 A. The Joyous Lake; that's the name of the bar.

6 Q. Did you have a conversation then with Wooton?

7 A. I did.

8 Q. What was said?

9 A. I believe initially he pointed out the gentleman  
10 on the telephone. I can't recall the exact  
11 conversation, but he explained to me that this  
12 gentleman had pulled up to him while he was on a  
13 traffic stop on Glasco Turnpike and asked for  
14 directions to an area supposedly in Saugerties  
15 that he wasn't familiar with. I recall Officer  
16 Wooton asking the dispatcher earlier for  
17 directions to Wrolsen Drive or someplace in  
18 Saugerties, so I associated that with what he was  
19 telling me at that time.

20 Officer Wooton then explained to me that  
21 sometime shortly thereafter by using his police  
22 radio to scan -- we scan multiple police agencies  
23 -- he heard a police dispatch from the Town of  
24 Saugerties to the same location as he just gave  
25 two people directions to and that in fact this

1 KEVIN LANE

2 incident may have involved these folks, so that's  
3 what we discussed.

4 Q. When you say that you heard Wooton asking the  
5 dispatcher for directions, was that on your radio?

6 A. Yes.

7 Q. That was prior to arriving there at the scene at  
8 the Mobil station?

9 A. Yes.

10 Q. Did you hear any other conversations between  
11 Wooton and the dispatcher on your radio prior to  
12 getting to the Mobil station?

13 A. I recall Officer Wooton notifying the dispatcher  
14 of a traffic stop, I believe. Other than that and  
15 asking for the directions that he requested, he  
16 may have called back in service from the traffic  
17 stop, but other than that, I recall no other  
18 transactions.

19 Q. Prior to your arriving at the Mobil station, did  
20 you hear any dispatches from Saugerties over your  
21 radio?

22 A. I don't believe so.

23 Q. How long did this conversation go on between you  
24 and Wooton when you got to the scene?

25 A. Approximately two to four minutes.

1 KEVIN LANE

2 Q. During that time period, was the man still on the  
3 phone?

4 A. He appeared to be on the phone, yes.

5 Q. And you had never seen that individual before that  
6 time; had you?

7 A. Never.

8 Q. Where was the other individual during that two to  
9 four minute conversation?

10 A. Officer Wooton had pointed out the vehicle which  
11 was over by the gas pumps and I saw the individual

12

1 KEVIN LANE

2 A. There was a response in the positive that in fact  
3 there was a signed complaint.

4 Q. Was that response immediate or did some time  
5 elapse between the request and the response?

6 A. I don't recall. It was shortly after the request,  
7 whether it was immediately or it took some time, I  
8 don't recall.

9 Q. Did the response come from the dispatcher, France?

10 A. Yes.

11 Q. Do you remember his exact words?

12 A. I do not.

13 Q. Do you remember the substance of the words?

14 A. I just told you.

15 Q. That it was a positive complaint?

16 A. That there was a signed complaint in reference to  
17 that matter.

18 Q. What did you and Officer Wooton do next?

19 A. We approached the two gentlemen across the street  
20 that we had seen from our position.

21 Q. When you approached the two gentlemen, what was  
22 your understanding of what the signed complaint  
23 was?

24 A. At that time, my understanding was that it was in  
25 reference to a trespass.

1 KEVIN LANE

2 Q. Did you have any understanding whether the  
3 complaint was for trespass as a violation or  
4 criminal trespass or a misdemeanor?

5 A. I did not have an exact distinction.

6 Q. Did you have any belief at that point or any  
7 understanding at that point which it was?

8 A. I don't recall making a distinction.

9 Q. Did you have any understanding at that point in  
10 time as to what the conduct was that was the  
11 subject of the trespass?

12 A. I did not.

13 Q. Did you have any information when you approached  
14 the Liptons as to whether there had been any  
15 report that the Liptons were armed and dangerous?

16 A. Yes.

17 Q. What was your understanding at that point?

18 A. I had received information -- and I don't recall  
19 exactly from whom, it was either France or Wooton  
20 or both -- that there was a possibility that these  
21 individuals were armed and dangerous.

22 Q. At that point in time, did you have any basis as  
23 to the foundation for that belief that they were  
24 armed and dangerous?

25 A. No.

1 KEVIN LANE

2 Q. When you approached the two men, who approached  
3 whom?

4 A. Officer Wooton approached the gentleman on the  
5 phone and I approached the younger gentleman in  
6 the vehicle.

7 Q. Did either of you have any weapons drawn?

8 A. No.

9 Q. How far was the vehicle from the telephone?

10 A. Approximately, I would say, and forgive me for the  
11 range, forty to sixty feet give or take and that's  
12 my best answer.

13 Q. Who engaged in conversation first; Officer Wooton  
14 with the man on the phone or you with the person  
15 in the vehicle?

16 A. I don't recall. I focused myself on what I was  
17 doing, so I couldn't answer that.

18 Q. Could you hear any of the conversation between  
19 Wooton and the man at the phone?

20 A. No, sir.

21 Q. What did you do exactly?

22 A. I approached the vehicle to identify the occupant.

23 Q. How did you do that?

24 A. I walked up to the vehicle and immediately  
25 observed what appeared to be a weapon in the back



1 KEVIN LANE

2 seat, so that redirected my focus.

3 Q. Did you approach the vehicle from the driver's  
4 side or the passenger side?

5 A. I believe it was the passenger side, but I can't  
6 be sure.

7 Q. Was this a two-door or a four-door car?

8 A. I believe four door, but once again, I can't be  
9 sure.

10 Q. Were the windows open in the back?

11 A. I don't recall.

12 Q. Do you recall whether or not you observed what you  
13 believed to be a weapon through a window?

14 A. I don't recall. I really don't recall.

15 Q. Do you recall whether you observed the weapon  
16 through a back window, a side window or what?

17 A. I believe it was a side window, and if my  
18 recollection is correct, I believe it was from the  
19 passenger side, but I can't be positive.

20 Q. Where was this weapon located?

21 A. The back seat kind of almost partially on the back  
22 seat and partially on the floor board type of  
23 position where, if recall correctly, it wasn't  
24 entirely on the back seat and it wasn't entirely  
25 on the floor board.

1 KEVIN LANE

2 Q. Was some portion of the weapon covered?

3 A. Yes.

4 Q. With what?

5 A. It was in a case and most of the weapon was  
6 covered.

7 Q. What part of the weapon could you see at that  
8 point in time?

9 A. I could see the butt of the weapon.

10 Q. Was that on the floor board or on the seat?

11 A. To the best of my recollection, that was the  
12 portion that was towards the floor board  
13 (indicating).

14 Q. And it's fair to say that you saw the weapon  
15 before you had any conversation with the occupant  
16 of the vehicle?

17 A. It's absolutely fair to say that.

18 Q. What did you do next upon seeing the weapon?

19 A. I recall thinking about officer safety as to how  
20 could this person grab this weapon in a fashion  
21 and use it against me before I could defend  
22 myself. In those positions, you tend to think  
23 officer safety right away and I recall thinking  
24 that. Then from just observing how this could be  
25 used against me, I went and asked the subject his

1 KEVIN LANE

2 name and I believe for some identification.

3 Q. The subject was in the front passenger seat; is  
4 that fair to say?

5 A. I believe so, but I can't be positive.

6 Q. He wasn't in the back; was he?

7 A. No, sir.

8 Q. Did you get a response when you asked him for his  
9 name?

10 A. Yes.

11 Q. What happened next?

12 A. After speaking with the individual, I inquired  
13 about the weapon. I asked him, What is that? He  
14 told me it was a shotgun.

15 Q. Did you have any further conversation about the  
16 weapon?

17 A. I believe I asked him whose it was.

18 Q. What did he say?

19 A. I think he said, It's ours. Then I said, Who is  
20 ours? He said, Me and my father. I can't be  
21 positive, but I'm pretty sure he gestured towards  
22 the individual over by Officer Wooton.

23 Q. What was said next?

24 A. I believe what was said next is that he said, It's  
25 our shotgun, it's a legal shotgun. I believe

1 KEVIN LANE

2 right away he made conversation about the fact  
3 that it was a legal shotgun.

4 Q. After that conversation, what happened?

5 A. At some point, I asked him to step out of the  
6 vehicle.

7 Q. What was your purpose in doing that?

8 A. To one, remove him from the weapon. And two, just  
9 to talk to him in a face-to-face manner and  
10 explain to him why we were there.

11 Q. Did you do so?

12 A. Yes.

13 Q. What did you tell him?

14 A. The subject of the conversation was that we were  
15 there because there was an incident apparently in  
16 the Town of Saugerties that may or may not have  
17 involved them, but apparently it did involve them  
18 and so we are going to act upon a signed complaint  
19 from the Town of Saugerties and they would be  
20 taken into custody and taken to the station where  
21 we could more adequately get to the bottom of what  
22 had happened.

23 Q. So you told him that you were going to put him  
24 under arrest?

25 A. Yes.

1 KEVIN LANE

2 Q. And the basis of your belief that these were the  
3 people that were involved in the incident in the  
4 Town of Saugerties was solely Officer Wooton's  
5 description to you; is that fair to say?

6 MR. POSNER: Objection. You can  
7 answer.

8 A. Can you repeat that, please?

9 Q. Is it fair to say that the basis of your belief  
10 that you had the correct individuals that were  
11 involved in the Town of Saugerties incident, was  
12 Officer Wooton's prior description, as you  
13 testified, as to what he had heard?

14 A. That's not safe to say.

15 Q. What else formed your belief that these were the  
16 people?

17 A. The totality of the circumstances; that Wooton had  
18 asked for directions -- I had heard myself -- that  
19 Wooton had asked for directions to the Town of  
20 Saugerties, the conversation that I overheard at  
21 the station, which involved the request from  
22 Wooton to the dispatcher, and the dispatcher's  
23 phone conversation which I believe to be with the  
24 Town of Saugerties Police. So it's not safe to  
25 say that it was entirely based on Wooton's

1 KEVIN LANE

2 description.

3 Q. Did you put handcuffs on Brett Lipton at that  
4 point in time?

5 A. Yes.

6 Q. Was Ron Lipton in handcuffs at that point or which  
7 happened first?

8 A. I believe he was, if I'm correct. I can't be  
9 sure, but I believe he was and he had been walked  
10 over to the vehicle with Officer Wooton.

11 Q. When you say "the vehicle," do you mean the police  
12 vehicle or the Lipton vehicle?

13 A. The Lipton vehicle.

14 Q. Did you then go with Brett Lipton to the police  
15 vehicle or somewhere else?

16 A. At some point in short proximity to this, I did.

17 Q. Did you then return to the Lipton vehicle?

18 A. I can't be sure, but I think I did, yes.

19 Q. Did either you or Officer Wooton enter the Lipton  
20 vehicle?

21 A. Yes.

22 Q. Which one?

23 A. Initially it was Officer Wooton, but I believe  
24 that I did as well.

25 Q. Who removed the gun from the vehicle?

1 KEVIN LANE

2 A. Officer Wooton.

3 Q. Was any further search conducted of the vehicle  
4 other than removing the gun?

5 A. There was some shotgun shells that were taken that  
6 were there; that was another initial observation  
7 that I had made, and just a brief search for any  
8 additional weapons. If your question was: Was  
9 anything else removed -- was that what your  
10 question was?

11 Q. My question was: Was any further search done other  
12 than taking the gun?

13 A. Yes.

14 Q. Where were the shotgun shells when you initially  
15 observed them?

16 A. They were right next to the -- they were on the  
17 floor board area. And if I recall correctly, and  
18 I believe I do, they were in the area where the  
19 butt of the gun was. I definitely recall them  
20 being in a black fanny pack, which was partially  
21 zipped open exposing the shells.

22 Q. Prior to Officer Wooton and you going into the car  
23 and removing these articles, had you requested  
24 consent from the Liptons to go into the vehicle?

25 A. I believe that during my initial conversation with

1 KEVIN LANE

2 Brett Lipton that he had offered to show me the  
3 gun and that was in direct correlation with him  
4 describing to me that it was a legal gun and  
5 therefore offering to show me that it was a legal  
6 gun. I denied that request, if I recall,  
7 obviously for officer safety reasons.

8 Q. Did you then ask him if you could go into the car  
9 and retrieve the gun?

10 A. I don't recall.

11 Q. Do you recall Officer Wooton making any such



1 KEVIN LANE

2 custody.

3 Q. How long were the Liptons at the station before  
4 they were arraigned?

5 A. I don't recall.

6 Q. During that time period, did you speak with anyone  
7 from the Saugerties Police Department at the  
8 station?

9 A. Did I?

10 Q. Yes.

11 A. I may have had a general conversation or a general  
12 comment to the officer that came from the Town of  
13 Saugerties Police Department.

14 Q. During the time that the Liptons were at the  
15 station prior to the arraignment, did you learn  
16 anything more about the conduct that had formed  
17 the basis for the trespass charge?

18 A. I don't believe so.

19 Q. During the time that the Liptons were at the  
20 station, did you hear anything from anybody about  
21 Jim Wrolsen?

22 A. No.

23 Q. Did you hear anything during the time period that  
24 the Liptons were at the station with regard to  
25 whether or not the Liptons had any complaint with

1 KEVIN LANE

2 regard to Jim Wrolsen?

3 A. I would ask you to repeat that question.

4 Q. During the time that the Liptons were at the  
5 Woodstock police station, did you hear anything  
6 from any source with regard to a Jim Wrolsen?

7 A. Yes.

8 Q. What did you hear?

9 A. I heard the elder Lipton make reference to him,  
10 but I don't know what that was about. I heard him  
11 say the name.

12 Q. Did any other information regarding Jim Wrolsen  
13 come to your attention during that time period?

14 A. Not that I recall.

15 Q. Did you remain at the station for the entire time  
16 that the Liptons were there?

17 A. I believe so, but I can't be positive. At the  
18 very least, for most of the time, but I don't  
19 believe I left.

20 Q. When the Liptons were brought to the station, were  
21 they immediately handcuffed to a wall?

22 A. I believe so, yes.

23 Q. Can you just describe for me the Woodstock police  
24 station?

25 A. Okay.

1 KEVIN LANE

2 Q. How many rooms are there?

3 A. About two.

4 Q. Would one be the chief's office?

5 A. That would be a third room.

6 Q. Is the other room like a general packing and  
7 processing area?

8 A. There is a small room that is referred to as the  
9 patrol room, there is another small room that is  
10 referred to as the dispatch office, off of the  
11 small patrol room is a small office which is the  
12 chief's office and then off of that, is a small  
13 little kitchen. I guess you would call it a  
14 lounge area where there are mailboxes for the  
15 police officers, there is a sink and like a water  
16 station.

17 Q. In which of these rooms were the Liptons  
18 handcuffed to the wall?

19 A. In the area I described as the general patrol room.

20 Q. How big of a room is that?

21 A. It's about maybe 15' X 10' or 20' X 10' roughly,  
22 give or take. It's maybe half the size of this  
23 room (indicating).

24 Q. Do you have any recollection of the Liptons at any  
25 time not being handcuffed to the wall?

1 KEVIN LANE

2 A. Yes.

3 Q. What are your recollections?

4 A. I recall when the ambulance folks were there that  
5 Mr. Lipton was unhandcuffed and there were times  
6 when they went to the bathroom that they were  
7 unhandcuffed from the wall.

8 Q. Who went to the bathroom; was it Ron Lipton, Brett  
9 or both?

10 A. I don't recall, sir.

11 Q. Do you recall if the request was made to you to go  
12 to the bathroom?

13 A. To me specifically?

14 Q. Yes.

15 A. I don't recall, no.

16 Q. Do you recall if anybody refused a request by the  
17 Liptons to use the bathroom?

18 A. No one would ever refuse a request to go to the  
19 bathroom in the Woodstock Police Department.

20 Q. So your answer is no to that?

21 A. My answer is no.

22 Q. Was any request made by the Liptons refused that  
23 night by any Woodstock police officer?

24 A. I can't be sure.

25 Q. Were the Liptons searched in any way at the police

1 KEVIN LANE

2 station?

3 A. They may have had their pockets checked, but  
4 beyond that, no.

5 Q. Were either of them asked to remove their  
6 clothing?

7 A. Not that I recall.

8 Q. Did you have any physical contact with the Liptons  
9 during the time period that they were at the  
10 station?

11 A. I may have actually checked their pockets. If  
12 that's physical contact, then yes. Other than  
13 that, there was no other physical contact.

14 Q. Did you generate a police report or was that  
15 Officer Wooton?

16 A. I believe it was Wooton; he was the arresting  
17 officer.

18 Q. I'm going to show you that report, which is one of  
19 the documents produced in the Defendants' Response  
20 to Plaintiffs' Demand for Production of Documents,  
21 and I ask you to take a look at about the seventh  
22 line up from the bottom.

23 A. Sure (witness complying). Are you referring to  
24 anything specifically, sir?

25 Q. This indicates that the Liptons were given water

1 KEVIN LANE

2 to drink, cake to eat and allowed to use the  
3 bathroom?

4 A. Yes.

5 Q. Do you know why that was put in that police  
6 report?

7 A. I don't.

8 Q. Is it routine for officers to log in what is done  
9 for people who are secured at the police station  
10 while they're there into a police report in  
11 Woodstock?

12 A. I think that varies by officer routine. I can't  
13 say.

14 Q. Do you do it?

15 A. Yes.

16 Q. Is there a reason that you do it?

17 A. You always want to document what occurs during an  
18 incident in case you ever need to refer to it  
19 later.

20 Q. Were you present when Officer Wooton initially  
21 measured the gun?

22 A. I was at the station, yes.

23 Q. Did you see him measure the gun for the first  
24 time?

25 A. I saw him in the process, yes.

1 KEVIN LANE

2 Q. Before he measured it, did you and he have a  
3 conversation as to whether or not the gun was  
4 legal or not?

5 A. I believe I said that it was difficult for me to  
6 tell, but I thought it may be legal. I know for a  
7 fact that I told him it appears close.

8 Q. Can you describe for me what your training and  
9 experience has been in determining whether guns  
10 are legal or not?

11 A. Well, certainly my training in the Penal Law and I  
12 know what requirements need to be met for a weapon  
13 to be legal or not.

14 Q. Did there come a time when Officer Wooton told you  
15 that he had measured the gun and it was not legal?

16 A. Yes.

17 Q. Did you have a discussion about that?

18 A. Basically what I just described was the  
19 discussion.

20 Q. Did there come a time when Officer Wooton measured  
21 the gun for a second time?

22 A. I believe so.

23 Q. Do you know what prompted that second measurement?

24 A. I think he was -- and this is my speculation --  
25 that he was confirming his original determination.

1 KEVIN LANE

2 Q. Did you question his original determination in any  
3 way before he measured it the second time?

4 A. No, sir.

5 Q. Did you see him measure it the second time?

6 A. I believe I saw he and Chief Brewster with the  
7 weapon and a tape measure, and as I recall, it's  
8 reasonable for me to say that I thought they were  
9 remeasuring it, yes.

10 Q. Did you actually remeasure it yourself or look to  
11 see whether the tape was confirming whether the  
12 gun was legal or not?

13 A. Never.

14 Q. Prior to their arraignment, were either of the  
15 Liptons brought into Chief Brewster's office?

16 A. Yes, I recall specifically the elder Lipton  
17 wanting to speak to Chief Brewster.

18 Q. Did he relay that request to you or to Wooton or  
19 who?

20 A. I don't recall if he relayed it to myself or  
21 anyone individually, but I do recall him just in  
22 general, saying that he would like to speak to the  
23 chief. He said, I would like to speak to the  
24 chief or something of that nature.

25 Q. Did you bring him into the chief's office?

-----



1 KEVIN LANE

2 A. I don't believe so. You have to understand that  
3 it's about a ten-foot distance. At some point he  
4 was in the chief's office, yes; I don't recall if  
5 I took him there or not.

6 Q. Did you hear any of the conversation that occurred  
7 in the chief's office?

8 A. No.

9 Q. Do you have a recollection of who was in there  
10 with Ron Lipton and the chief if anyone else?

11 A. My only recollection is I recall the chief of  
12 police and the elder Lipton in his office and at  
13 that time based on that recollection there was no  
14 one else in that office.

15 Q. Did anybody report to you what the substance of  
16 the conversation was in the chief's office?

17 A. No.

18 Q. To this day do you have any knowledge of what was  
19 talked about in the chief's office?

20 A. Yes.

21 Q. Is that based on information coming from your  
22 attorney or somewhere else?

23 A. I believe it's based on information in the  
24 complaint.

25 Q. Other than the complaint, do you have any

1 KEVIN LANE

2 information of what occurred in the chief's  
3 office?

4 A. No, sir.

5 Q. Were you present during the arraignment procedure  
6 in the Woodstock Town Court?

7 A. I believe I may have been in and out; I'm not  
8 positive that I was there for the entire  
9 arraignment.

10 Q. There was no Assistant District Attorney present;  
11 was there?

12 A. No, sir.

13 Q. Did anybody from the Woodstock Police Department  
14 make a bail recommendation to Justice Husted?

15 A. Not to my knowledge.

16 Q. Did there come a time when you learned that the  
17 gun was actually legal?

18 A. Yes.

19 Q. When was that?

20 A. I can't be sure. It was sometime after the date  
21 on the 14th.

22 Q. Was it the next day?

23 A. You know, I can't be sure. It was sometime within  
24 a short amount of days after the 14th.

25 Q. Who did you learn that from?

1 KEVIN LANE

2 A. I don't recall.

3 Q. Do you recall the substance of what was said when  
4 you heard about it?

5 A. I recall that somehow by someone -- and I don't  
6 recall who it was -- it was determined that in  
7 fact the shotgun was apparently one-half inch  
8 beyond the limit, making it legal.

9 Q. After you learned that, did you have any  
10 discussions with anybody in the Woodstock Police  
11 Department about the fact that a mistake had been  
12 made and the gun was actually legal?

13 A. At some point -- and I can't recall by who -- it  
14 was explained to me how it happened with the tape.  
15 I was interested in how that could happen and it  
16 was described to me and I could see how that could  
17 happen, so yes.

18 Q. Other than that conversation, was there any  
19 discussion about what to do about the fact that a  
20 mistake was made?

21 A. Well, I'm quite sure when I was made aware of it  
22 that the District Attorney's office had already  
23 been made aware.

24 Q. How did you know that; what was the basis for that  
25 knowledge or did you just assume that somebody

1 KEVIN LANE

2 contacted the DA?

3 A. I believe it was beyond assuming. I think at that  
4 point that that was also part of the conversation;  
5 that the DA's office was also aware. I can't be  
6 sure at what point I did find out about this. It  
7 may have been two or three days later.

8 Q. Have you ever had a conversation with the DA's  
9 office with regard to the mistake in the  
10 measurement of the gun?

11 A. Not that I recall.

12 Q. Who was in charge then of prosecuting in the  
13 Woodstock Town Court for the Ulster County DA's  
14 office?

15 A. Peter Matera.

16 Q. Is he still the prosecuting attorney there?

17 A. Yes, sir.

18 Q. Was there any discussion among the members of the  
19 Woodstock Police Department to inform Judge Husted  
20 of the mistake in measurement?

21 A. Not that I recall.

22 Q. When you heard about the mistake, how was it  
23 described to you that the mistake happened?

24 A. All I recall, is that the mistake happened because  
25 of a -- I believe it was a misinterpretation of

1 KEVIN LANE

2 the actual tape measure that was used to measure  
3 the gun. That was the only reason that there was  
4 a mistake.

5 Q. Have you ever been the subject of any complaints  
6 with regard to your conduct as a police officer?

7 A. Never.

8 MR. POSNER: Objection.

9 Q. Have you ever been a subject of any disciplinary  
10 proceeding while a police officer?

11 MR. POSNER: Objection.

12 A. Never.

13 Q. Have you ever been sued about anything you did  
14 allegedly in your capacity as a police officer?

15 MR. POSNER: Objection.

16 A. Never.

17 Q. Prior to the arraignment that night on February  
18 14th, did you ever hear anything about the Liptons  
19 from any other law enforcement source other than  
20 the Saugerties Police Department?

21 A. Not me personally, no, I don't believe so.

22 Q. Do you know if any other Woodstock police officer  
23 prior to the Liptons arraignment heard anything  
24 from any other law enforcement source about the  
25 Liptons other than the Saugerties Police

1 KEVIN LANE

2 Department?

3 A. Yes.

4 Q. Who was that and what did they learn, to your  
5 knowledge?

6 A. Are you referring to other law enforcement?

7 Q. Sure. Let's start with who in Woodstock heard it.

8 MR. POSNER: Objection. You can  
9 answer.

10 A. The chief of police.

11 Q. When did you learn that the chief had heard  
12 something else?

13 A. I couldn't tell you for sure, it was at some point  
14 while the Liptons were at the Woodstock Police  
15 Department.

16 Q. Did the chief tell you this?

17 A. I believe so, yes.

18 Q. What did he say he had learned?

19 A. I believe he had had some discussions -- this is  
20 to the best of my recollection -- regarding the  
21 state police in a past investigation that may or  
22 may not have involved the Liptons.

23 Q. Do you remember anything more specific than that?

24 A. Yes.

25 Q. Tell me what you remember?

1 KEVIN LANE

2 A. That it was in reference to a homicide.

3 Q. Anything more specific?

4 A. That the homicide happened on Interstate 84.

5 Q. Did the chief tell you that the state police were  
6 looking at Lipton as a suspect?

7 A. I believe so, yes.

8 Q. Did the chief tell you who in the state police was  
9 imparting this information to him?

10 A. I don't recall. If he did, I don't remember, but  
11 I don't think so, no.

12 Q. Did he tell you when this information was imparted  
13 to him? In other words, was it imparted while the  
14 Liptons were there or at sometime previous?

15 A. I don't know. I don't recall.

16 Q. Did you have an understanding of when this  
17 information came into the Woodstock PD?

18 A. I can't be sure, but as I recollect, I believe it  
19 was that night.

20 Q. After that night, have you learned anything from  
21 the Saugerties Police Department with respect to  
22 the Liptons?

23 A. No.

24 Q. The same question: After that night have you  
25 learned anything from any other law enforcement

1 KEVIN LANE

2 source other than the Saugerties Police Department  
3 about the Liptons?

4 A. Yes.

5 Q. Who did you learn it from?

6 A. I spoke to a gentleman in the state police at some  
7 point after that regarding an incident that -- or  
8 that charges were brought against the Liptons and  
9 I can't be sure, but I think it was in the Town of  
10 Newburgh.

11 Q. How long after the arraignment did that  
12 information get imparted to you?

13 A. It wasn't long. It was very shortly, I believe,  
14 if I recall correctly.

15 Q. Who was the state policeman?

16 A. I think, and I can't be sure, that it was  
17 Investigator Vasquez from the state police  
18 barracks in Newburgh.

19 Q. What was the context of that conversation; did he  
20 call you on the phone or did you see him  
21 somewhere?

22 A. It was a phone conversation that I had with  
23 Vasquez, and I don't know how it was initiated or  
24 why it took place.

25 Q. Other than the conversation with Vasquez, did any



1 KEVIN LANE

2 other information come to you from any law  
3 enforcement source after the arraignment with  
4 respect to the Liptons?

5 A. No, not that I recall.

6 Q. Did you ever learn at any time that Ronald Lipton  
7 had sued the Walden Police Department?

8 A. Yes.

9 Q. When did you hear that for the first time?

10 A. I'm quite sure he told us that that night.

11 Q. Did you hear that from anybody else?

12 A. No, Mr. Lipton told me that as I recall.

13 MR. SMITH: Let me just take a short  
14 break.

15

16 (Break in the proceeding)

17

18 Q. Officer, during the arraignment proceeding in the  
19 Woodstock Town Court, did you give any information  
20 about the Liptons to the judge?

21 A. Not that I recall, no.

22 Q. Do you recall hearing any other Woodstock police  
23 officer give any information about the Liptons to  
24 the judge?

25 A. No.

1 KEVIN LANE

2 Q. Do you recall who else from the Woodstock Police  
3 Department was there at the arraignment  
4 proceeding?

5 A. No, I don't.

6 MR. SMITH: Thanks. I have nothing  
7 further.

8 MR. ISSEKS: Before we go to the next  
9 witness, I would just like to ask you, Mr. Posner,  
10 if you can produce for us the traffic ticket that  
11 was issued around 4:30 on February 14th, 1999 by  
12 Officer Wooton which he has testified about.

13 MR. POSNER: To the extent it can be  
14 located, it will be produced.

15

16 \*\*COUNSEL REQUESTS INFORMATION TO BE SUPPLIED\*\*

17

18 (The Examination Before Trial of  
19 KEVIN LANE concluded at 12:25 p.m.)

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2 STATE OF NEW YORK

3 COUNTY OF \_\_\_\_\_

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5

6 I have read the foregoing record of my  
7 testimony taken at the time and place noted in the  
8 heading hereof, and I do hereby acknowledge it to  
9 be a true and correct transcript of same.

10

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KEVIN LANE

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18 Sworn to before me this

19 \_\_\_\_\_ day of \_\_\_\_\_, 2002.

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C E R T I F I C A T I O N

I, KIMBERLY BURKE, a Court Reporter and  
Notary Public in and for the State of New York, do  
hereby certify that I recorded stenographically  
the proceedings herein at the time and place noted  
in the heading hereof, and that the foregoing is  
an accurate and complete transcript of same, to  
the best of my knowledge and belief.

Kimberly Burke

KIMBERLY BURKE

Dated: November 4th, 2002

\* \* \*

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I N D E X T O R E Q U E S T S

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Description

Page Line

5

Production of the traffic ticket that was  
issued around 4:30 on February 14th, 1999 by  
Officer Wooton

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## KEVIN LANE

## CondenseIt™

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## KEVIN LANE

## Condenselt™

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## CondenseIt™

## remove - Woodstock

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